

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1312

AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-2.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This article may be cited as "the accountancy act of ~~2001~~ **2007**".

SECTION 2. IC 25-2.1-1-3.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.8. "Attest" means to provide any of the following financial statement services:

- (1) An audit or other engagement performed in accordance with the AICPA Statements on Auditing Standards (SAS) or other similar standards adopted by reference under IC 25-2.1-2-15.
- (2) A review of a financial statement performed in accordance with the AICPA Statements on Standards for Accounting and Review Services (SSARS) or other similar standards adopted by reference under IC 25-2.1-2-15.
- (3) An examination of prospective financial information performed in accordance with the AICPA Statements on Standards for Attestation Engagements (SSAE) or other similar standards adopted by reference under IC 25-2.1-2-15.
- (4) **An engagement performed in accordance with the standards of the Public Company Accounting Oversight Board.**

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SECTION 3. IC 25-2.1-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. "Certificate" means:

- (1) a certificate for a certified public accountant issued under IC 25-2.1-3 or IC 25-2.1-4;
- (2) a certificate of registration for an accounting practitioner issued under IC 25-2.1-6-1 **(before its repeal)**; or
- (3) a certificate for a certified public accountant, public accountant, or accounting practitioner renewed under IC 25-2.1-4.

SECTION 4. IC 25-2.1-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. "Quality review" means a study, an appraisal, or a review of at least one (1) aspect of the professional work of:

- (1) an individual **who**; or
- (2) a firm in the practice of accountancy **that**;

attests or issues compilation reports, by at least one (1) individual who holds a certificate **from any state and possesses qualifications that meet the applicable substantial equivalency standards** and who is independent of the individual or firm being reviewed.

SECTION 5. IC 25-2.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A member of the board serves a term of three (3) years and until the member's successor is appointed and qualified.

(b) An individual may not serve more than two (2) complete terms. An appointment to fill an unexpired term is not a complete term.

(c) All terms expire on June 30.

SECTION 6. IC 25-2.1-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. **(a)** Fees collected by the board shall be received and accounted for by the board and be deposited in the state general fund.

(b) In addition to the fee to issue or renew a certificate or permit, the board shall establish a fee of not more than ten dollars (\$10) per year for a person who holds a certificate as an accounting practitioner, a CPA, or a PA to provide funds for administering and enforcing the provisions of this article, including investigating and taking action against persons who violate this article. All funds collected under this subsection shall be deposited in the accountant investigative fund established by IC 25-2.1-8-4.

SECTION 7. IC 25-2.1-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. The board may adopt rules under IC 4-22-2 governing the administration and enforcement of this article and the conduct of licensees, including the following:

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- (1) The board's meetings and conduct of business.
- (2) The procedure of investigations and hearings.
- (3) The educational and experience qualifications required for the issuance of certificates under this article and the continuing professional education required for renewal of certificates under IC 25-2.1-4.
- (4) Rules of professional conduct directed to controlling the quality and probity of the practice of accountancy by licensees, including independence, integrity, and objectivity, competence and technical standards, and responsibilities to the public and clients.
- (5) The actions and circumstances that constitute professing to be a licensee in connection with the practice of accountancy.
- (6) The manner and circumstances of use of the title "certified public accountant" and the abbreviation "CPA".
- (7) Quality reviews that may be required to be performed under this article.
- (8) Methods of applying for and conducting the examinations, including methods for grading examinations and determining a passing grade required of an applicant for a certificate. However, the board shall to the extent possible provide that the examination, grading of the examination, and the passing grades are uniform with those applicable in other states.
- (9) Substantial equivalency.
- (10) Administration of the accountant investigative fund established by IC 25-2.1-8-4.**

SECTION 8. IC 25-2.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The board shall renew a certificate issued under:

- (1) this chapter;
 - (2) IC 25-2.1-3 (certified public accountants); or
 - (3) IC 25-2.1-6 (public accountants and accounting practitioners)
- before July 1, 2007;**

if the holder of the certificate applies and meets the requirements under this chapter.

SECTION 9. IC 25-2.1-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) An individual:

- (1) whose principal place of business is not in Indiana; and
- (2) who either:
 - (A) has a valid certificate as a CPA from any state that the board or its designee has determined to be in substantial equivalence with the CPA licensure requirements of this state;

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or

(B) has individual CPA qualifications that have been determined by the board or its designee as substantially equivalent to the CPA licensure requirements of Indiana;

shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges granted to the holder of a CPA certificate under IC 25-2.1-3 without the need to obtain a certificate under IC 25-2.1-3 or a permit under IC 25-2.1-5.

(b) An individual to whom subsection (a) applies shall notify the board of the individual's intent to conduct business in the state under subsection (a):

(b) Notwithstanding any other provision of law, an individual who offers or renders professional services, in person or by mail, telephone, or other electronic means, as authorized under this section:

(1) is not required to provide notice or other submissions to the board; and

(2) is subject to the requirements in subsection (c).

(c) An individual of another state exercising the privilege granted under this section ~~consents, and a CPA firm that employs the individual consent,~~ as a condition of the grant of this privilege: ~~to:~~

(1) ~~to~~ the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) ~~to~~ comply with this article and the board's rules; ~~and~~

(3) that if a certificate as a CPA from the state of the individual's principal place of business is no longer valid, the individual shall cease exercising the privilege granted under this section in Indiana, individually and on behalf of the CPA firm; and

~~(3) (4) to~~ the appointment of the state board or agency that issued the individual's license as the individual's agent on whom process may be served in any action or proceeding by this board against the individual.

SECTION 10. IC 25-2.1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board ~~may~~ **shall** adopt rules that require as a condition to renew a permit under this chapter, that an applicant undergo, not more than once every three (3) years, a quality review conducted in a manner the board specifies.

~~(b) If the board adopts rules under subsection (a)~~ **(a) The rules adopted under subsection (a) must:**

(1) be adopted reasonably in advance of the time when a quality review first becomes effective;

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(2) include reasonable provision for compliance by an applicant showing that the applicant has in the preceding three (3) years undergone a quality review that is a satisfactory equivalent to the quality review required under this section;

(3) require, with respect to quality reviews under subdivision (2), that the quality review be subject to review by an oversight body established or sanctioned by the board that shall periodically report to the board on the effectiveness of the review program and provide to the board a listing of firms that have participated in a quality review program; and

(4) require, with respect to quality reviews under subdivision (2), that:

(A) the proceedings, records, and work papers of a review committee are privileged and are not subject to discovery, subpoena, or other means of legal process or introduction into evidence in a civil action, arbitration, administrative proceeding, or Indiana board of accountancy proceeding; and

(B) ~~that~~ a member of the review committee or individual who was involved in the quality review process is not permitted or required to testify in a civil action, arbitration, administrative proceeding, or Indiana board of accountancy proceeding on matters:

(i) produced, presented, disclosed or discussed during, or in connection with, the quality review process; or

(ii) that involve findings, recommendations, evaluations, opinions, or other actions of the committee or a committee member.

SECTION 11. IC 25-2.1-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) The board may not issue a certificate under this chapter after July 1, 2007.**

(b) The board may renew a certificate under this chapter that is held validly before July 1, 2007.

SECTION 12. IC 25-2.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. An individual who is registered with the board to practice accounting as an accounting practitioner and holds a valid certificate issued under section 1 of this chapter **(before its repeal)** or renewed under IC 25-2.1-4 may be known as an "accounting practitioner" and may use the abbreviation "AP". However, an individual registered as an accounting practitioner may not prepare or render accounting opinions or certificates for any purpose, including financial statements, schedules, reports, or exhibits

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for publication, credit purposes, and use in a court.

SECTION 13. IC 25-2.1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The board may impose sanctions for any of the following reasons:

- (1) A violation of IC 25-1-11-5.
- (2) Revocation or suspension of the right to practice before a state or federal agency.
- (3) Dishonesty, fraud, or gross negligence in the practice of accountancy or in the filing of or failure to file the licensee's own income tax returns.
- (4) Any conduct reflecting adversely on the licensee's fitness to engage in the practice of accountancy.
- (5) Failure to complete continuing education requirements satisfactorily.
- (6) Failure to furnish evidence, when required, of satisfactory completion of continuing education requirements.

(b) A holder of a CPA certificate issued under this article is subject to disciplinary action in this state if the CPA certificate holder:

- (1) offers or renders services or uses the CPA title in another state; and
- (2) commits an act in that other state for which the CPA certificate holder would be subject to discipline in the other state if the CPA certificate holder were licensed in the other state.

The board shall investigate a complaint made by a board of accountancy or the equivalent of a board of accountancy in another state.

SECTION 14. IC 25-2.1-8-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) **The accountant investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the Indiana professional licensing agency.**

(b) **The expenses of administering the fund shall be paid from the money in the fund. The fund consists of:**

- (1) **money from a fee imposed upon a person who holds a certificate as an accounting practitioner, a CPA, or a PA under IC 25-2.1-2-12(b); and**
- (2) **civil penalties collected under IC 25-2.1-13-3(b).**

(c) **The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.**

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(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the total amount in the fund exceeds seven hundred fifty thousand dollars (\$750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars (\$750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated to the Indiana professional licensing agency for its use in administering and enforcing this article and conducting investigations and taking enforcement action against persons violating this article.

(f) The attorney general and the Indiana professional licensing agency may enter into a memorandum of understanding to provide the attorney general with funds to conduct investigations and pursue enforcement action against violators of this article.

(g) The attorney general and the Indiana professional licensing agency shall present the memorandum of understanding annually to the board for review.

SECTION 15. IC 25-2.1-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) An individual or a firm who knowingly violates IC 25-2.1-12 commits a Class A misdemeanor.

(b) If the board finds that an individual or a firm knowingly violates IC 25-2.1-12 or a rule or order established by the board under this section, the board may impose a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation. Penalties collected under this section shall be deposited in the accountant investigative fund established by IC 25-2.1-8-4.

SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 25-2.1-6-1; IC 25-2.1-6-2; IC 25-2.1-6-3; IC 25-2.1-6-4.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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